

(H2)

Previous references.

75 of 06 ds 1-3 Dec 06

1908-9

(Police)

Pol File No. 176 of 08

Serial Nos. 1 to 40

Later references.

Police 36-10-1109

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 to 40

Part B. for June 1909.

SUBJECT.

Death of a Pariah boy named Kuppaswamy. caused by
Colour Sergeant Sephton of the Sherwood Foresters at Hebhal
camp.

Table of contents.

- From the District Magistrate, Bangalore District No. S. 571 of 6-5-09
- Reports that a pariah boy named Kuppaswamy was shot
on 4-5-09 at about 1-30 P.M. at Hebhal camp by the
above mentioned Sephton and that the boy subsequently died
2. To the F.A. Resident No. Pol. 964 of 12-5-09
Reports the occurrence
3. From the S. G. of Police No. 6441 of 8-5-09
576
- Forward a copy of the First Information Report
in the case
- G. R. S. 58

P.T.O.

4. From the District Magistrate, Bangalore No. 5584, 13-5-09
Submits a ~~for~~ further report and solicits orders
as to whether a charge sheet against the accused
may be placed before the city Magistrate ~~to~~ who is also
a Justice of the Peace.
5. From the D. Magistrate, Bangalore No. S 592, 15-5-1909
States that as the General Officer commanding
has decided that the Sergeant may be tried by the
civil authorities, a charge sheet has been placed
before the city Magistrate, Bangalore, who ~~is~~ is,
also a Justice of the Peace.
6. To the D. Magistrate of Bangalore No. 93602, 19-5-09
States that the case does not come under the
Notification No. 91598 dt 75-06-2, 12-12-06
~~and~~ and that the trial ~~is~~ may proceed before
Mr. Hume Wright
7. To the F.A. Resident No. Pol. 987, 18-5-09
Makes a further report in the matter.
8. To the District Magistrate, Bangalore No. 93825, 10-6-09
Calls for a copy of the judgment in the case
9. From the District Magistrate, Bangalore. S. 654, 17-6-09
Forwards a copy of the judgment
10. To the F.A. Resident No. Pol. 1085, 23-6-09
Intimates the result.

1909.

GENERAL AND REVENUE SECRETARIAT.

(Police.)

NOTES.

File No. 176708

FILE HEADING.

Death of a pariah boy named Kuppuswamy
caused by Colour Sergeant Shepton of the
Sherwood Foresters at Hebbal Camp.

From

The Dt. Magr., Bangalore Dt.

No. 5571

Dated 6.5.09

Received 7.5.09.

Diary No. J 2850

Enclos.

Spare Copies --

Serial No. /

BRIEF ABSTRACT OF LETTER.

Reports that a pariah boy named Kuppuswamy
was shot on 4.5.09 at about 1.30 P.m. at Hebbal
camp by Colour Sergeant Shepton of the Sherwood
Foresters & that he subsequently died.

NOTES AND ORDERS.

1. The Dt. Magr. states that the
offender was arrested by the military
authorities, that the boy ~~was conveyed~~
died ~~on~~ while he was being conveyed
to the Bowring Civil Hospital and that

Serial
No.

760

The British Police have held the
inquest. He further promises to
submit a final report after
receipt of the inquest records
called for from the D. Magr.
of the C. & M. Station. Groves are
solicited as to whether the case
is to be reported to the Residency
under G. O. No. 7901-39-2110 1708
D/12.12.1900.

B.G. SN
7-5-09 8/5/09

Secretary.

to be on the safe side
Report made
though the facts are sure to have been
handed to the Res. of the D. by the
authorities direct -

3. Please submit a draft to the
before come. ~~for submit for~~

SN
8/5

4. A draft letter is put up.

EG.
10/5/09

SN
10/5

10/5

1st Councillor). 5 Approved

14/11

Serial
No.

2

To
The 7-A Resident, no. Pol. 964 of 12-5-09.
Reports the occurrence.

3

From
The I. G. of Police no. $\frac{6441}{576}$ of 8-5-09
forwards a copy of the 7-I.R.
in the case.

7 Subd. The further reports
promised by the Dt. Magistrate, Bangalore
and the I. G. of Police may be awaited.

B.S.
13-5-09
CN
14-5-09

I. 14/5

4

From
The Dt. Magistrate, Bangalore, no. 5584 of 13-5-09

Submits a further report &
solicits orders as to whether a charge
sheet against the accused may be
placed before the city Magistrate, who is
also a Justice of the Peace.

9 The Dt. Magistrate states
that the case seems to fall within
the purview of clause (1) of Govt.
notification no. J 1598-Cl 75-6-2
of 11-12-06 and therefore solicits
orders on the point referred to above.

But this notification does not
seem to apply to Europeans inas-
much as it refers to "a
Native officer or soldier of the

7:42

Serial
No.

Indian Army." Under proviso (a) to Section 41 of the Army Act "a person subject to military law . . . shall not be tried by court martial for treason, murder, manslaughter, treason-felony, or rape committed in any place within her majesty's dominions, other than the United Kingdom and Gibraltar, unless such person at the time he committed the offence was on active service, . . .". According to the rules framed by the Governor General in Council, under section 549 of the Criminal Procedure Code "when a person subject to military law is accused of an offence for which he is liable under the Army Act, 1881, s. 41, to be tried by a court martial, a magistrate shall not proceed to try him, or . . . he, unless he is moved to do so by the military authorities, or ^{he} is of opinion, for reasons to be recorded in writing, that he

Serial
No.

ought so to proceed without being moved thence by these authorities."

1. So a British soldier who has committed any of the offences mentioned in the above ~~proviso~~ proviso while in active service may be tried by an ordinary criminal court having jurisdiction if moved thence by military authorities or if it is of opinion that ~~it~~ ought so to try without being moved thence by those authorities.

But how far the above provisions apply to a European soldier who has committed, while in active service, any of the offences mentioned above within the Mysore State is a matter for consideration.

II Subo. for orders.

B.G.
17-5-09 SN

5 In the meanwhile another letter has been received from The D.C. Maffee. Bangalore. no. 5592 of 15-5-09

States that as the General Officer commanding the Brigade has decided that the Sergeant should be tried by the civil authorities, a charge sheet has been placed before the City

in any place within her Majesty's dominions other than in the United Kingdom & Gibraltar

Serial
No.

Magte., Bangalore, who is also a
Justice of the Peace.

B.S.
17-5-09 13 Subo. for orders.

14 This last letter received
from the District ^{Magte} renders it un-
necessary ~~to take~~ any further action
here.

15) It may be remarked that even
if the military authorities had not
~~expressed their~~ surrendered the
accused for trial, there was nothing
to prevent the State Police from
charge sheeting the accused
before a Justice of the ~~Peace~~ ^{Magte} Place.

16) It is not clear who conducts
the prosecution. Probably the
prosecuting Inspector.

17/5. Sd.

Secretary. m) We are not bound by the
terms of the Army Act; and the venue
in which the accused is proposed
to be charged (304 A, 206) is, at any
rate, not one mentioned in proviso (a)
to 419 that Act. The Mr. Magte.

Serial
No.

be informed that the N. No. 911th
Decr 1906 does not apply to the
case, & that the ^{trial} case may proceed
before Mr. Hume Wright, Justice of the
Peace.

15) A further commⁿ should also be
made to the D.C. intimating the better
fact, & stating that a charge sheet
has been placed before Mr. Hume Wright,
Justice of the Peace.

19) Please submit drafts at once to the Dewan thro' 1908.

20) Subo. with two drafts
as directed.

17-5-09 18/5/09 21 Please have a clean
draft as revised.

18/5 18/5 Subo. with a clean copy of
the draft as directed.

18-5-09 18/5

1st Councillor)

23) approved

18/5/09

Serial
No.

29) Done as the matter is
in Court, & then submit the file to
Dewan for info. - 18/5/09

2-

Issued & subd to Dewan.

SN

22/5

878

To 23 5-09

6

The DC. Magle. ^{Bancroft} J3602 19.5.09.

States that the case does not
come under notification no. J1598-Cto
75-06-2 of 12.12.06 & that the trial may
proceed before Mr. Hume Wright.

7

To The F.A. Resident. no. Pol 987 of 18.5.09

Makes a further report in
the matter.

Police file no. 176 of 28-09

9

Submitted to His Highness.

L b I submit for information, the accompanying file of papers relating to the death of a Paria boy, aged 16 years, who was shot on the 4th instant by one Sergeant Sephton of the First Sherwood Foresters, at the Hebbal Camp.

L | 2. The General Officer Commanding the Bangalore Brigade having decided that the Sergeant should be tried by the Civil authorities, a charge sheet has been placed before Mr. G. Hume Wright, City Magistrate and Justice of the Peace, Bangalore.

1 *TH*
25 May 09

Police File no. 176 of 08-09

Record of Cases submitted for the Orders
of His Highness the Maharaja.

Subject.

146
29.5.09

Papers relating to the death of a Paria
boy, aged 16 years, who was shot on the
4th instant by one sergeant Sephton of
the First Sherwood Foresters, at the
Hebbal Camp.

951
154
4.6.09

2

Order.

KRLH
2/6/09

Police Secy
7/4/11
39 June 09

31

Secy
7/6/09

Secy
7/6/09

The case has, I believe, been signed.
Veris by ref. to Mr. Magli, or Main c/s
Magli's ref., & intimate to Mr. Magli
5.6.09

8ms
16/10

Serial
No.

3: Subd. with a draft to the
Dt. Magt. Bangalore.

B.G.
8-6-09. SW
8/6/09

Issue
8/6/09 SA

8 To The Dt. Magt. Bangalore no. J3825-D/10-6-09.
Calls for a copy of the judgment
in the case.

9 From The Dt. Magt. Bangalore, 5654-D/17-6-09.
Forwards a copy of the judgment.

3: Subd. with a draft inti-
miating the result to the Presidency.
B.G.
21-6-09. SW
21-6-09

34 Issue
21/6/09. SA

35 Please send the file afterwards to
look into the judgment.

21/6/09 SA

10 To The J.A. Resident. no. Pol 1085-D/23-6-09.
Intimates the result.

36 File resolved. as directed.
B.G.
26-6-09. SW

37 Copy of the judgment is
submitted for perusal.

38 (1). The judgment does not ~~there~~

Serial
No.

Contain Sufficient materials

~~Sufficient light~~ to Conclude whether the Magistrate's (or rather J.P.'s) decision is correct & whether the Evidence justified finding on a grave offence than Sec 304 A 2 P.C. Copies of the Statements of witnesses have not been sent up by the District Magistrate. The advisability of sending them may be considered.

(2) The sentence passed on the accused viz Simple imprisonment for six weeks with a fine of Rs 5/- does not appear to be sufficiently deterrent, Even assuming that the offence was rightly held to be one under Sec 304 A. It is not a question of accused taking or not taking sufficient precautions when firing his rifle. It was quite improper for him to have thought of testing his skill in shooting, in a locality which he must have known to be a largely frequented quarter. It may therefore be considered whether the case is not a fit one to move the Madras High Court for a revision of the sentence.

Sealed 26/6/09. Sd.

Serial
No.

17

If approved the St. Magte may be
asked to obtain copies of the 8th &
witnesses & forward the same to Govt
with his own opinion

(St. C.)

1. This may be done

14/11/09
3076709

Phu

68B
28/6/09
SB
20/6/09
14/11/09
3076709
SB
17/10/09

2. Copies need not be sent for.
No further action is necessary.
(1st Councillor's order after
further discussion of the matter)

1/7/09. SB

4. Submitted to Secretary for info.

1/7/09 SB
21 seen - file
2/7/09
SB
21/1/09

B. R. S.
2/7/09

S. 571

Shenubi

J2850

Office of the District Magistrate, Bangalore District.

Dated Bangalore, 6th May 1909.

file no. 176
Sl. no. 1

From

B. J. Kumaraswamy Naik Esquire B.A.,
District Magistrate, Bangalore District.

To

K. S. Chandrasekhara Aiyar Esquire B.A., B.L.,
Secy. to the Govt. of H.H. the Maharaja of Mysore,
General and Revenue Departments, Bangalore.

S i r,

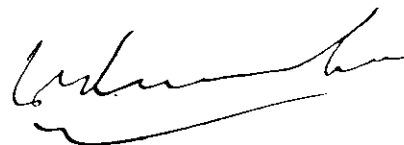
I have the honor to report that one Kuppasawmy, a pariah boy of 16 years old, who was employed as a Maity in the Serjeants Mess, First Sherwood Foresters, was shot on the 4th instant at about 1-30 P.M. at Hebbal Camp within the limits of the Bangalore Taluk by one Colour Serjeant Sephton of First Sherwood Foresters. The offender was immediately arrested by the Military Authorities present on the spot. The boy was removed to the Bowring Civil Hospital and he is said to have expired before he reached the Hospital. It is reported that the British Police held an Inquest on the body of the deceased and that the Medical Officer of the Bowring Civil Hospital opined that the death was due to Gun shot on the forehead through which the bullet passed, which was found lodged in the brain. A requisition to the District Magistrate, Civil and Military Station, has this day been made to forward the Inquest Records to take further steps in the matter.

2. A final report will be submitted in due course.

I have the honor to be,

S i r,

Your most obedient servant,



DISTRICT MAGISTRATE,

B A N G A L O R E.

B.N.S.

hu2

Diary No. of letter replied to _____

Pol. No. 964.

General and Revenue Secretariat

()

, the

190 .]

To

The J.A. Resident.

Sir,

Date of issue 12-5-1909

Signed by

Mr. H. S. Chandrasekhar

Sd/-

Sd/-

I am directed to report that one Kuppaswamy, a pariah boy, 16 years old, who was employed as a middy in the Sergeants' mess, First Sherwood Foresters, is reported to have been shot on the 4th instant at about 1.30 PM. at Hebbal Camp within the limits of the Bangalore Taluk by ~~the~~ one Colour Sergeant, Sephton, of First Sherwood Foresters. The boy was removed to the Bowring Civil Hospital & he is said to have expired

over.

SUBJECT.

expired before he reached
the Hospital. The British Police
held an inquest on the body
of the deceased and the
Medical officer of the
Bowring Civil Hospital is
reported to have ~~expressed~~ ^{expressed} the opinion
that the death was due
to gun-shot. The offender
was arrested by the Military
Authorities present on the
spot.

A final report on the
results of the enquiry now proceeding
~~of the enquiry now proceeding~~
~~results of the further steps which~~
~~will be taken in the matter~~
will be made in due
course.

List of enclosures.

I have to

B. A.
for Secy

C.S. SM
1075709 1075709

1075709
Copied by

Examined by

Secy

Thyblis Office
1908

190 -0 .

File no. 176
Sl. no. 3

FROM

*The Inspector-General of
Police in Mysore.*

TO

*The Secretary to the Govt. of H. H.
the Maharaja of Mysore,
Gen. & Rev. Depts.*

Dated

Despatched *8th May 1909*

Received

General No. *6441*
No. *576*

Enclosure No. *1*

*As to J. J. R in a murder
case at Stebbal in which
he accused ~~a~~ a European*

4
No. 6461 enc 1
576

OFFICE OF THE INSPECTOR-GENERAL OF POLICE IN MYSORE,

Dated Bangalore,

8⁴

May

1909.

FROM D. Devaraj Urs Esquire,
~~F. E. C. GARR, Esq.,~~-----
Inspector-General of Police in Mysore.

TO

K. S. CHANDRASEKHARA AIYAR, Esq., B.A., B.L.,
Secretary to the Government of H. H. the Maharaja of Mysore,
General and Revenue Departments.

SIR

I have the honor to forward herewith for the information of Government copy of the First Information Report in a case under sections 302, 304 and 304(A), Indian Penal Code, said to have occurred at Hebbal in the Bangalore Taluk in which the accused person is a European.

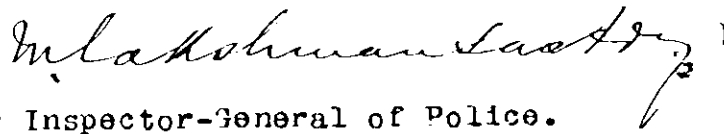
The results of the investigation and trial of the case will be reported in due course.

I have the honor to be,

S i r,

Your most obedient servant,


M.S.


For Inspector-General of Police.

Copy of First Information Report in a case under sections 302, 304 and 304 A, Indian Penal Code, said to have occurred at Hebbal in the Bangalore Taluk in which the accused person is a European.

Murder etc under sections 302, 304 and 304 A, I.P.C.

Complainant

Accused

Government

Color Sergeant Sephton.

A Company, 1st Sherwood Foresters

Information was given to Bangalore Taluk ^{Office} ~~Police~~ by telephone at 4 P.M. on 4-5-1909 that ~~the~~ corpse of a domestic servant named Kuppasamy had been brought from the Military camp near Hebbal Rifle Range to Bowring Hospital. One Arokyasamy another domestic servant of the said camp, who accompanied the deceased, stated that death was caused by a gun shot from the accused.

The Amildar has taken up the case for investigation.

First Information Report is submitted to the Senior Assistant Commissioner and First class Magistrate, Bangalore Sub-Division on 4-5-1909.

(Sd). L. Krishna Rao.

For Deputy Commissioner,

Bangalore District.

" C O P Y "

sq
M.S.

M. A. Mahanand
For Inspector-General of Police.

 Office of the District Magistrate, Bangalore District.

Dated Bangalore, 13th May 1909.

From

B. J. Kumaraswamy Naik Esquire B.A.,
District Magistrate, Bangalore District.

To

K. S. Chandrasekhara Aiyar Esquire B.A., B.L.,
Secy. to the Govt. of H.H. the Maharaja of Mysore,
General and Revenue Departments, Bangalore.

S i r,

In continuation of my letter No. S.571 of the 6th instant, regarding the death of Kuppusawmy referred to therein, I have the honor to submit the following further report :-

Soon after the information regarding the death of Kuppusawmy was received through the British Police, at 4 P.M., on the 4th instant, the Amildar and the Police Inspector of the Bangalore Taluk, proceeded forthwith to the Bowring Hospital where the body of Kuppusawmy had been removed to and they were present during the Inquest held by the British Police over the dead body. The next morning (5th May) the Amildar and the Police Inspector proceeded to Hebbal ^{Camp} ~~Park~~ and with the assistance of Major Rigby recorded the statements of the

1. Color Sergeant Lovett		marginally noted five persons
2. " " E.C. Cope.		
3. Sergeant Wells		regarding the occurrence.
4. Major Rigby.		
5. Ross Pillay, Hospital Asstt.		

Again on the 7th instant, the Superintendent of Police, Bangalore District, recorded the statements

1. Arokyasawmi		of the marginally noted native
2. Maddur.		
3. Arpoland.		domestic servants that were present
4. Ralsundaram		at the scene of occurrence in
5. "		

presence of Sergeant Sephton and Captain Adjutant Hudson.

From the statements of the first five persons , it is observed that Color Sergeant Sephton was seated on the threshold of the Sergeants' Mess Room, facing the kitchen at Hebbal Camp. He had a gun in ^{his} hand and was aiming at a squirrel. Kuppusawmy who was returning to the kitchen after throwing some rubbish into the other side of the public road behind the kitchen, was accidentally shot by Sergeant Sephton. Kuppusawmy at

once

1908-09 y 2906
From The District Magistrate

Bangalore District
file no C 176
sh. no 4
To The Secretary to the Govt of
H H the Maharaja of Mysore

Dated 13th } S. H. Dept^l
Despatched }

Received May, 1909.

General No.

S. No. 584

Enclosure No.

This Office No. S. 571 dt 6th May/09

Submits further report - re -
- regarding the death of one
Ruppersaiah referred to & solicits
orders as to whether a charge
sheet against the accused may
be placed before the Dy. Magistrate
who is also a Justice of Peace.

once fell to the ground as the bullet pass through his forehead. But the statements of the latter four domestic servants go to show that Sergeant ^{Sephton} was aiming his gun at Maddoor who was standing in the door-way of the kitchen, holding the door-frame. ^{But} Maddoor was shoved inside the kitchen by Arokyasawmi, another domestic servant who was observing Sergeant ^{Sephton}'s movements. Thereupon, Sephton aimed at Kuppusawmy and shot him down while he was returning to the kitchen as stated above. At any rate, as soon as the report of the gun was heard, the Sergeants at the Mess and the servants at the kitchen came out and saw Kuppusawmy lying on the ground, bleeding and unconscious. He was at once removed to the Bowring Hospital and Sergeant Sephton was immediately arrested and dis-
 -possessed of his gun, ^{and} under the orders of Major Rigby taken to Bangalore. The recorded evidence shows no motive for this act on the part of Sergeant Sephton nor does it shew the existence of any ill-feeling between the deceased and Sephton. Nor even any altercation seems to have taken place between them previous to this occurrence. It is also stated that Sergeant ^{Sephton} is not addict-
 -ed to any liquor and he was sober at the time of the occurrence. Sergeant Sephton has declined to make any statement before the Police Officers at this stage.

Investigation so far made, points to the conclusion that Color Sergeant Sephton aimed the gun presumably to frighten Maddoor and then fired in the direction in which Kuppusawmy was moving ~~17~~ towards the kitchen as mentioned above. There is no doubt that he was rash and negligent in firing the gun at the time and place when a number of people could be reasonably expected to be passing. Since Sergeant Sephton has, while in active service, committed an offence punishable under Section 304 ~~a~~ Indian Penal Code, within the limits of the Bangalore Taluk, the case seems to come within the perview of Clause (1) of Government Notification No. J 1598/Cts.75-06-2 dated the 11th December 1906 and orders are --
 therefore

304A?

76W

therefore solicited as to whether a Charge Sheet against the accused
may be placed before the City Magistrate who is also a Justice of
the Peace. It is ascertained that the accused Soldier is in the
custody of the British ^{Military} Authorities.

A

I have the honor to be,

S i r,

Your most obedient servant,



DISTRICT MAGISTRATE,

Bangalore District.



B.N.S.

V. N. S.
Office of the District Magistrate, Bangalore District.

Dated Bangalore, 15th May 1909.

S. No 592

From eu

B. J. Kumaraswamy Naik Esquire B.A.,
District Magistrate, Bangalore District.

To

K. S. Chandrasekhara Aiyar Esquire B.A., B.L..
Secy. to the Govt. of H.H. the Maharaja of Mysore,
General and Revenue Departments, Bangalore.

S i r,

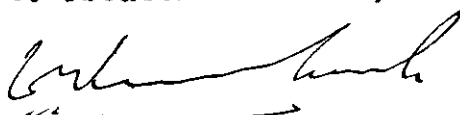
In continuation of my letter No. S.584 of the 13th instant, reporting in the matter of the offence committed by Color Sergeant Sephton of 1st Sherwood Foresters, Bangalore, I have the honor to forward herewith copy of letter No. 5671 dated the 14th May 1909, addressed to the Superintendent of Police, Bangalore District, by the Station Staff Officer, Bangalore, stating that the General Officer Commanding the Brigade has decided that Color Sergeant Sephton be tried by the Civil Authorities and to request the favour of very early orders being passed in the matter.

A Charge Sheet has already been placed before the City Magistrate who is also a Justice of the Peace by the Bangalore Taluk Police on the strength of the communication from the Station Staff Officer referred to above.

I have the honor to be,

S i r,

Your most obedient servant,



DISTRICT MAGISTRATE,

but B A N G A L O R E.

B.N.S.

Reports and Returns.

Station Staff Officer,

No.5671

Bangalore, 14-5-09.

From

The Station Staff Officer,

B A N G A L O R E.

To

The District Superintendent of Police,

Bangalore City.

Reference to your No.2016 dated 13th May 1909 and your
telephone message of date.

The General Officer Commanding the Brigade has decided
that Colour Sergeant Spanton be tried by the Civil Court.

Please arrange for his custody in direct communication
with the Officer Commanding 1st Bn. Sherwood Foresters.

Sd/- — Foster Lieutenant.

Station Staff Officer.

~~~~~

" C O R Y ".



DISTRICT MAGISTRATE,

B.N.S.

Bangalore District.

*hmr*

( )

, the 190 .

Date of issue 19-5-09

Signed by Luis Higuera

To  
- The Lt. Mafte, Bangalore.  
Sir,

With reference to the correspondence ending with your letter no. 592 dated the 15<sup>th</sup> May 1909, regarding the trial of Color Sergeant Septon of the Sherwood Foresters for an offence under section 84 of the I. P. C., I am directed to observe that the case does not come under notification no. J 1598-C to 75-06-2 dated the 12<sup>th</sup> December <sup>1906</sup> as stated ~~by you~~ in your letter of the 13<sup>th</sup> instant <sup>over.</sup>

7C W

SUBJECT.

so that notification refers  
only to native officers  
& soldiers of the Indian  
Army.

2. The trial of the  
Against <sup>Seymour</sup> ~~Seymour~~ therefore  
cast away; ~~however~~, proceed  
before Mr. Hume Wright,  
Justice of the Peace.

I leave to

SD  
for Secretary

1875  
1875/5/19

B.G.  
17-5-09  
SN  
19/6/19

List of enclosures.

Copied by 18/4/5  
Examined by SN

G.R.S. 26]

*Final draft*  
*23/11*

*Police*

File No. 176

Serial No. 7

Diary No. of letter replied to \_\_\_\_\_

*Pol. No. 987*

General and Revenue Secretariat

( )  
, the 190 . )

To

*The 7-A Resident.*

*Sir,*

Date of issue

*18-5-09*

Signed by

*Mr K S Chandra Sekhham  
Sayer*

*In continuation*  
*of this office letter no. Pol*  
*966 dated the 12th May*  
*1909, reporting the death of*  
*one Kuppuswamy caused*  
*Color Sergeant Sephton of*  
*the Sherwood Foresters, I*  
*am directed to state that*  
*the investigation conducted*  
*by the Police shows that*  
*the deceased Kuppuswamy*  
*was shot when he was*  
*entering the kitchen by*  
*Color Sergeant Sephton who*  
*was then posted on the*  
*threshold of the Sergeant's*  
*over.*

*Encls  
2*

SUBJECT.

*18/5*  
*18/5*

mess Room, <sup>opposite</sup> ~~facing~~ the kitchen  
at Hebal Camp. As soon  
as the report of the gun  
was heard, the Sergeants at  
the mess and the servants  
at the kitchen came out  
and saw Kuppaswamy  
lying on the ground bleeding  
and unconscious. He was  
at once removed to the  
Borrowing Hospital and  
Sergeant Septon was im-  
mediately arrested &  
dispossessed of his gun &  
was, under the orders of  
Major Rigny, taken to  
Bangalore.

List of enclosures.

2. The evidence records  
so far does not disclose  
any motive for the act  
nor was there any altercation  
between the deceased &  
Septon before the occurrence.  
It is also reported that

Copied by

Examined by

GENERAL AND REVENUE  
SECRETARIAT.

(Continuation Sheet draft form.)

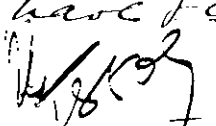
(Separate para)

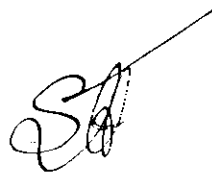
the latter is not addicted to drink & that he was quite sober at the time of the deed. (Septm has declined to make any statement before the police at this stage.

but 3. There appears to be no room to doubt that ~~the~~ <sup>he</sup> ~~Sergeant~~ was at least rash and negligent in firing the gun at a place where a number <sup>were</sup> of people ~~could be reasonably expected to be~~ passing to and fro.

4. The At. Magistrate of ~~the~~ Bangalore ~~City~~ has placed a charge sheet against the accused before Mr. Hume Wright, Justice of the Peace.

5. The result of the trial will be intimated in due course.

I have &c  
  
 Secretary



Diary No. of letter replied to

General and Revenue Secretariat

( )  
, the 190 . )

Date of issue

10-6-09

Signed by

Mr. K. V. Srinivasan

No. 3825-

8/10/09

To

The Dt. Magistrate Bangalore.

Sir,

In continuation  
of this office letter no.  
J3602-Police-176-08-6 dated  
the 19<sup>th</sup> May 09 regarding  
the trial of Color Sergeant  
Septon of the Sherwood  
Foresters before Mr. Hume  
Wright, Justice of the Peace.  
I am directed to state  
that it is <sup>understood</sup> ~~believed~~ that  
the case has been disposed  
of and to request that  
a copy of the judgment  
in the case may be  
obtained & forwarded to  
this office at an early date.

I have <sup>over</sup> etc.

SUBJECT.

B.G.  
8.6.09

SR

8/10/09

For Secretary

2/10/09  
[Signature]

Bangalore District  
District Magistrate's Office  
Dated 17<sup>th</sup> June 1909.

F. 654  
en 1

From.

R. J. Kumarasami Naik Esquire B.A.  
Deputy Commissioner  
Bangalore District.

To.

H. T. Bhendrasekhara Dyer Esquire B.A. B.L.  
Secretary to the Government of Mysore,  
General and Revenue Departments.

Sir

As called for in your letter  
No J. 3828- dated 10<sup>th</sup> June 1909, I  
Police 176-08-8  
have the honor to forward herewith,  
copy of judgment in criminal case  
No 1039 of 190809, on the file of the  
Sd/- District Magistrate, Bangalore.

I have the honor to be

Sir

Your most obedient servant,

*R. J. Kumarasami Naik*

For District Magistrate,  
Bangalore District.  
*R. J.*

*Forwarded to the Secretary.*

*32/18*  
1908  
From *file no. 176*  
*36-100-4*  
The District Magistrate  
Bangalore District

To  
The Secretary to the  
Government of Mysore  
General & Revenue Department  
Dated 17th June 1909  
Despatched

Received

General No.

*G. No. 654*

Enclosure No. 1

---

Forward copy of  
judgment in criminal  
case no 1039 of 1909  
on the file of the Magistrate  
Bangalore District as called for in no. of  
3825/Police 176-0-8  
dated 10th June 1909.

IN THE CO-CR. OF THE CITY MAGISTRATE. B A L O A I Q R L.

Dated 27th May 1909.

Presents: G. M. Wright Esquire,

Criminal Disg. No. 1039 of 1908-09

Complainant.

Accused.

Bangalore City Police.

Versus

Repton,

~~REPTON~~

J. U. D. C. E. F.

The Bangalore City Police charged the accused under Section 304A, I.P. Code with having on the 4th May 1909 at about 1-30 P. M., in the Camp shot on Kunpusawmy, a domestic servant of the mess of the Sherwood Foresters' Regiment, while he was returning to the kitchen after throwing some rubbish and thereby caused the death of the said Kunpusawmy by rash and negligent act.

The prosecution examined:-

1. Arakyasawmy, 2. Madurai, 3. Arlando, 4. Color Sergeant Kovatt, 5. Chujanga Rao, 6. Ross Pilla, 7. Balaji Si. 9. Major Kirby, 10. Shamsher Khan and produced Articles.

Article No. 1 Rifle.

2. Bullet.

The accused was charged as follows:-

"That you on or about the 4th day of May 1909 at Bangalore did an act which was both rash and negligent by firing your rifle in the direction of a public road at a distance of about 50 yards and caused the death of one Kunpusawmy by such rash and negligent act, and thereby committed an offence punishable under Section 304A of the I.P. Code and with the cognizance of the accused admits guilt to the charge and states as follows:-

Question. You have heard the evidence that you were seated in the middle of the Sergeant's Mess at Hobbal Camp on the 4th May at about 1-30 P. M., and had in your possession this little No. 10 ten rifle, that a report of a small fire arm was heard and immediately after the boy Kuppasamy was found wounded in the head and that an empty cartridge case was found in your rifle and when questioned you replied that you were shooting at a squirrel. *What is your explanation for shooting towards the Public Hall where people are constantly passing?*

Answer. On the 4th May I was with the Coy at Hobbal, shortly after 1 P. M., on the day mentioned, I fetched out my small rifle with the intention of shooting at Kirial dogs near the cook house. I followed the dogs a matter of 70 or 80 yards from the cook's house over the Indian Road on to the Range. I fired two shots at the dogs and then returned to camp as I was entering the Sergeant's Mess. I saw a squirrel on the tree on the left of the cook's house as I was looking at it, I sat down on the window so as to get a steady aim at the squirrel. I came up to the aim on two or three different occasions but came down again as I could not get a good shot, eventually the squirrel sat still on the side of the tree about 5 ft. from the ground. I came up to the aim again and fired. Immediately I fired at the squirrel I saw the boy stagger and fall forward before firing. I did not see the boy or anyone else in sight. I have had the rifle about three years but I have not used it since I came to India.

Question. Have you any of the ammunition?

Answer. I had 4 rounds that day, the first round missed fire and the 2nd I fired at the dogs and the 4th I fired at the squirrel. This is all I had. I brought the ammunition from England. I have always been one of the best shots in the battalion.

The Court examined the following witnesses:-

1. Sergeant Cope

A. J. Jones and filed the exhibits.

Material facts of this case are these: Accused a soldier of the Sherwood Forester Regiment, in the owner of the 1st Battalion Rifle, article 1 reduced in Court in the 1911 about 1-30 p.m., accused was seated on the sill of window of the Foresters' mess at the Camp holding Rifle article 1. Several other Foresters were seated at dinner at the mess. Opposite the mess is the mess kitchen the door of which faces the window where accused was sitting. At the foot of the kitchen runs the Dan Alfred-Tunkur Road, a very public road on which there is much traffic; it leads to the Kherli station and is separated from the Sherwood Foresters' mess by the Elford Allapur Road, which runs to the right of the Dan Alfred-Tunkur Road. There is a row of trees on the Dan Alfred-Tunkur Road, which is 2 yards broad, and one of these trees called blue stands 2 yards from the edge of the road, 2 yards from the mess door where accused sat, and 4 yards to the foot of the back wall of the kitchen. From the position which accused sat, the sill of window is 4 feet high, the tree marked blue is directly visible, though from the situation of the kitchen looking at the tree from the mess window the space between the front wall of kitchen and this particular tree does not look more than 4 yards. The diameter of the tree in question at a height of about 4 feet is one foot, six inches. I have inspected the premises and taken measurements in presence of the Prosecution and the accused and his advocate on the 26th May. On the 27th May about 1-30 p.m., whilst accused was sitting on the window sill, article 1, a 1/2 armed Nipusamy was attached to the mess from the kitchen carrying a basket to be deposited at the side of the road came back on the side of the road tree marked blue and at a little distance from the tree, and about 4 yards from the side of the kitchen was seen to fall. Just before his fall, there report of a small fire as heard, followed by a cry and then the Nipusamy was found lying on the ground at the spot shown to be 4 yards from

the side of the kitchen, and about 8 or 10 Feet from the tree on the side facing the Mess window. Accused stood in a d 4th Prosecution witness who was at table in the mess, took the rifle article 1 from him and asked him what he was doing. Accused replied that he was shooting squirrels and seemed confused and dazed. 4th Pre-witness took out an empty cartridge case from the breach of the rifle, but did not keep it, which was, the rifle, and on his part, the boy Ku usually found to have a bullet wound in his forehead and was taken to hospital, but died before reaching it. The incrust and the examination shows that Ku usually died of a rifle wound of the forehead from the rifle article 1 and the bullet article 2 which was taken from the deceased's forehead of the kind used in the rifle article 1. Accused admits that he fired the rifle from the window at a squirrel on the tree marked blue and points out on the tree the spot where the squirrel was crawling about 5 to 6 feet up the trunk of the tree and to the left of it. Accused further states that he did not see the boy Ku usually as he was partially covered by the tree. He also states that he is one of the crack shots of his battalion. No motive is offered in evidence. Accused could have fired at the boy or is there any evidence that he aimed at him. It is quite possible for the boy to have come from the side of the tree just as accused fired; it is also quite possible that the accused did not see the boy before he fired since his aim was concentrated on the squirrel and in the act of pressing the trigger with a little pull off such as the trigger of the rifle article 1, the boy might have got in the line of fire, but accused could have released his pressure on the trigger and it is in the opinion of Major Ditty, 9th Pre-witness. On observation of the place and noting the line of fire, I think it is more probable that deceased came by the right of the tree and thus came into the line of fire and was concealed from accused by the frogs apple on the kitchen wall. It is proved by 2nd Court witness, the boy, child of the above, that he had the rifle in the mess room.



to have fired if he saw any people passing, and that the fire was so small and badly finished that accused might never have ascertained on its carrying the shot bullet on to the road. But I think, being a military man, he ought to have known the range and power of his weapon, and to have realized that it was unsafe to fire in a direction where other people might pass at any moment. Culpable rashness has been defined as acting with the consciousness that the mischievous and illegal consequences may follow, but it is the hope that the consequences will not follow which distinguishes it from recklessness. It is often with the belief that the actor has taken sufficient precautions to prevent their happening that culpability arises from the act despite the consciousness. Accused must have known that to fire towards a public road with a loaded rifle was an act which would produce mischief as it was an act which would produce mischief from the fact that he is a crack shot and that he could see no one in or near his line of fire, he had therefore the requisite consciousness to be culpable.

Culpable rashness is acting without the consciousness that a illegal or mischievous effect will follow, but in circumstances which show that the actor has not exercised the caution incumbent upon him and that if he had, he would have had the consciousness. The culpability arises from the negligent neglect of the civil duty of circumspection.

Now if accused acted without consciousness of mischievous effects, the circumstances that servants were passing to and from the kitchen and that people were likely to pass on the road, the fact that he fired, and that he exercised no caution or other precaution, that he was not at all to be taken into consideration as to the squirrel—a very small object—with a very small rifle, and so demonstrable his accurate powers of shooting, regardless of what might happen if he missed the tree, for the result might have been the same if the deceased boy had been on the other side of the road. I therefore convict the accused

John Seighton of doing a rash and negligent act and thereby causing the death of a boy, an offence punishable under Section

to be

With regard to the sentence inflicted and to which I had given much thought and consideration, I must observe that the Legislature evidently regarded an offence under Section 304A as serious in itself - the maximum term of imprisonment at the time was a fine to the discretion of the Court under Section 65 B.P.C. Punishment besides being the retribution due to the offender has also another object, namely, to act as a warning and a deterrent to others and to prevent the recurrence of such rashness and negligence.

Under the Law of England Vide Russell on Crimes P. 604 3rd Edition, accused if at Newbold had been indicated for murder would be liable to transportation for life or for not less than seven years or imprisonment for four years or fine at the discretion of the Court and this is for lawful acts if merely ordered to fire a shot in the present case A.P. 543 of Russell is first the following dictum:-

"Where persons employed about such of their lawful occupation from whence danger may probably arise to others, besides the ordinary cautions, it will be manslaughter, at least on account of the negligence". Thus if workmen through stress, or fear, or flight fire a shot in the ordinary course of their business by which a person underneath happens to be killed, if they did not look out and give timely warning to such as might be below and there was even a small probability of persons passing by, it will be manslaughter. It was a lawful act but done in an improper manner. Much greater then is the offence if one deliberately fires a rifle in the direction of a public and much frequented road at very short range.

In the case of *Regina v. Smith*, we find the High Court inflicting a fine of £100/- on a person charged with the offence of killing a person by fire in the direction of a public road.

In the case of *Regina v. Smith* P. 475 we find the High Court sentencing the accused under Section 304A to three months rigorous imprisonment and a fine of £100/- for having caused the death of

several persons by allowing the to cross a ferry in an unsafe  
 ferr. boat under his control. In I.L.M. All, 1, 924, we find a  
 sentence of fine of 200 for voluntarily causing hurt under  
 Section 323 I.P.C. upheld by the High Court, and in the same  
 volume P. 767, we find the same High Court sentencing an accused  
 person to one year's rigorous imprisonment and a fine of Rs. 100  
 under Section 323 I.P.C. for voluntarily causing ~~a~~ grievous  
 hurt.

In I.L.M. All 2, 996, we find a sentence of fine of 10  
 imposed by a Magistrate for causing hurt under Section 323 set  
 aside as inadequate by the High Court and a sentence of three  
 months' rigorous imprisonment <sup>imposed</sup> in addition to the fine.

It is therefore obvious from the English Law on the subject  
 of "Manslaughter" that it is analogous to the offence under sec-  
 tion 304A with which the accused is charged and from the Indian  
 Case Law on the same subject, that a mere nominal sentence is  
 not sufficient in the present case where the accused has ut-  
 terly disregarded all caution, and a sentence such as will mark  
 the gravity of the offence is called for in the ends of jus-  
 tice, and having regard to the position of the accused in the  
 accused's position. We have all the circumstances into consid-  
 eration, and give due weight to his Advocate's arguments, I  
 sentence <sup>accused</sup> John Sepkto to simple imprisonment for six weeks and  
 to pay a fine of Rs. fifty, or, in default of payment of fine,  
 to further simple imprisonment for six weeks.

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

The rifle Article I before Court will be confiscated  
 to Government under Section 917, Criminal Procedure Code.

(Signed): L. Hare Wright.

Cst. Magistrate,

First Class Magistrate

Justice of the Peace

RECEIVED  
 10/11/24  
 Magistrate & Justice  
 of the Peace.

Diary No. of letter replied to

3218

Pol. No. 1085.

General and Revenue Secretariat

( )

, the

190

To

The F. H. Resident

Sir.

Date of issue

23-6-09.

Signed by

Mr. C. Balasundaram

In continuation of this office letter no. Pol. 987 dated the 18th May 09 regarding the death of one Kuppuswamy caused by the negligence of Color Sergeant Septim of the Sherwood Foresters, I am directed to state that the Sergeant, who was placed on his trial before Mr. Hume Wright, Justice of the Peace, was ~~convicted~~ convicted of an offence under section 304 A. I. P. C. and sentenced to simple

over.

SUBJECT.

imprisonment for six weeks  
and to pay a fine of Rs 51, <sup>1</sup>/<sub>2</sub>.  
in default to further  
simple imprisonment  
for six weeks

I have to  
Sd/-  
For circulating

B.G.  
21.6.09. <sup>EN</sup>  
21/6/09

List of enclosures.

and  
/

Copied by ad v/fb  
Examined by. SN